

12-21-04

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED

2005 MAR 10 A 11:48

NORMAN K. WRIGHT,

Petitioner,

v.

UNIVERSAL CITY DEVELOPMENT
PARTNERS, d/b/a UNIVERSAL
ORLANDO,

Respondent.

EEOC Case No. 15DA301188

FCHR Case No. 23-03689

DOAH Case No. 04-3126

FCHR Order No. 05-040

DIVISION OF
ADMINISTRATIVE
HEARINGS

DSM

CWS

AT

**FINAL ORDER DISMISSING PETITION FOR
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE**

Preliminary Matters

Petitioner Norman K. Wright filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2003), alleging that Respondent Universal City Development, d/b/a Universal Orlando, committed an unlawful employment practice on the basis of Petitioner's handicap (bi-polar / psychiatric) when it terminated Petitioner from employment.

The allegations set forth in the complaint were investigated, and, on July 23, 2004, the Executive Director issued his determination finding that there was no reasonable cause to believe that an unlawful employment practice had occurred.

Petitioner filed a Petition for Relief from an Unlawful Employment Practice, and the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

An evidentiary hearing was held in Orlando, Florida, on October 27, 2004, before Administrative Law Judge Daniel Manry.

Judge Manry issued a Recommended Order of dismissal, dated December 21, 2004.

Pursuant to notice, public deliberations were held on March 4, 2005, by means of Communications Media Technology (namely, telephone) before this panel of Commissioners. The public access point for these telephonic deliberations was the Office of the Florida Commission on Human Relations, 2009 Apalachee Parkway, Suite 100, Tallahassee, Florida, 32301. At these deliberations, the Commission panel determined the action to be taken on the Petition for Relief.

Findings of Fact

We find the Administrative Law Judge's findings of fact to be supported by competent substantial evidence.

We adopt the Administrative Law Judge's findings of fact, except as set out in the "Exceptions" section of this Order, below.

Conclusions of Law

We find the Administrative Law Judge's application of the law to the facts to result in a correct disposition of the matter.

We adopt the Administrative Law Judge's conclusions of law.

Exceptions

Petitioner filed exceptions to the Administrative Law Judge's Recommended Order, excepting to findings of fact in Recommended Order paragraphs 1, 2 and 8, and conclusions of law in Recommended Order paragraphs 13, 14, 15, 16, 17, 18, 19, 21, 22 and 23.

With the exception of the exceptions made to paragraphs 13 and 14, in each instance Petitioner takes issue with the inferences drawn or facts found from the evidence presented.

The Commission has stated, "It is well settled that it is the Administrative Law Judge's function 'to consider all of the evidence presented and reach ultimate conclusions of fact based on competent substantial evidence by resolving conflicts, judging the credibility of witnesses and drawing permissible inferences therefrom. If the evidence presented supports two inconsistent findings, it is the Administrative Law Judge's role to decide between them.' Beckton v. Department of Children and Family Services, 21 F.A.L.R. 1735, at 1736 (FCHR 1998), citing Maggio v. Martin Marietta Aerospace, 9 F.A.L.R. 2168, at 2171 (FCHR 1986)." Barr v. Columbia Ocala Regional Medical Center, 22 F.A.L.R. 1729, at 1730 (FCHR 1999).

With regard to the exceptions to paragraphs 13 and 14, Petitioner seems to except to the legal analysis used by the Administrative Law Judge to decide the case. As indicated, above, we have concluded that the Administrative Law Judge's application of the law to the facts to result in a correct disposition of the matter and we have adopted the Administrative Law Judge's conclusions of law.

Petitioner's exception to Recommended Order paragraph 8 points out that Petitioner was terminated on July 3, 2003, as opposed to the July 3, 2004 date indicated in the Recommended Order.

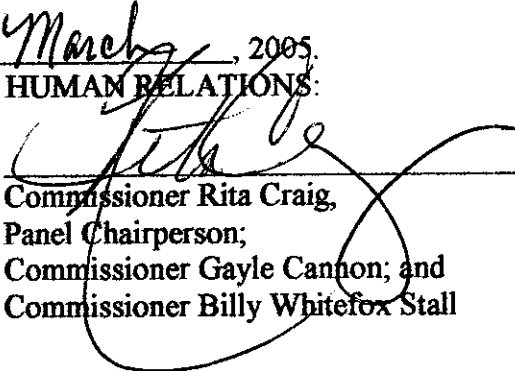
Petitioner's exceptions are rejected, except that we correct the obvious scrivener's error in paragraphs 4, 8 and 9 of the Recommended Order to reflect that the indicated July 3, 2004 date in those paragraphs is actually July 3, 2003.

Dismissal

The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

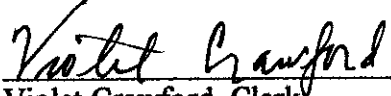
The parties have the right to seek judicial review of this Order. The Commission and the appropriate District Court of Appeal must receive notice of appeal within 30 days of the date this Order is filed with the Clerk of the Commission. Explanation of the right to appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED this 8th day of March, 2005,
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:



Commissioner Rita Craig,
Panel Chairperson;
Commissioner Gayle Cannon; and
Commissioner Billy Whitefox Stall

Filed this 8th day of March, 2005,
in Tallahassee, Florida.



Violet Crawford, Clerk
Commission on Human Relations
2009 Apalachee Parkway, Suite 100
Tallahassee, FL 32301
(850) 488-7082

NOTICE TO COMPLAINANT / PETITIONER

As your complaint was filed under Title VII of the Civil Rights Act of 1964, which is enforced by the U.S. Equal Employment Opportunity Commission (EEOC), you have the right to request EEOC to review this Commission's final agency action. To secure a "substantial weight review" by EEOC, you must request it in writing within 15 days of your receipt of this Order. Send your request to Miami District Office (EEOC), One Biscayne Tower, 2 South Biscayne Blvd., Suite 2700, 27th Floor, Miami, FL 33131.

Copies furnished to:

Norman K. Wright
826 Grand Cayman Court
Orlando, FL 32835

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d/b/a Universal Orlando
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Cobb & Cole
150 Magnolia Avenue
Post Office Box 2491
Daytona Beach, FL 32115-2491

Daniel Manry, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 8th day of March, 2005.

By: Violet Crawford
Clerk of the Commission
Florida Commission on Human Relations